

## **Chapter 78**

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## ARTICLE I. IN GENERAL

### Sec. 78-1. Extraterritorial jurisdiction.

- (a) The territory described in City of San Antonio Ordinance No. 67064 of May 5, 1988, a true copy of which is attached hereto and made a part hereof by reference as Exhibit A hereto, is hereby declared to be the extraterritorial jurisdiction of the city and is incorporated into the city as such for every lawful purpose.
  - (b) City Ordinance No. 50 of May 26, 1988, establishing platting and subdivision rules and regulations for the city, is hereby extended to apply to said extraterritorial jurisdiction pursuant to the provisions of V.T.C.A., Local Government Code § 212.003.
- (Ord. No. 51, §§ 1, 2, 5-26-1988)

### Sec. 78-2. Construction or use of private roads on unplatted land.

- (a) *Definition.* "Private road" is hereby defined as it is defined in the Uniform Act Regulating Traffic on Highways, V.T.C.A., Transportation Code § 541.302, as follows, to-wit: "Every place or way in private ownership used for vehicular travel by the owner and those having express or implied permission from the owner but not by other persons." Such definition is not intended to include residential driveways as that term is commonly understood.
- (b) *Permit.* The construction or use of all private roads on any unplatted land in the city limits is hereby prohibited unless and until the owner of such land first obtains a permit from the city council based on written application and public hearing. There shall be a \$100.00 charge for such application.
- (c) *Penalty; additional remedies.* Each violation of this section shall be punished by a penalty of a fine of not less than \$200.00 nor more than \$2,000.00 and each day such offense continues shall constitute a separate offense. Each violation hereof is also declared to constitute a public nuisance which can be summarily abated by police action to protect the public health, safety and welfare. The city may also maintain suits in equity for injunctive relief.

(Ord. No. 57, §§ 1--3, 9-6-1988)

### Sec. 78-3. Dedication of right-of-way by subdividers.

- (a) Dedication required.
  - (1) Subdivisions adjacent to any existing state maintained street, road, or highway. The subdivider shall be required to dedicate on the plat twenty feet (20') of right-of-way width adjacent to the land being platted. No additional pavement shall be required on existing streets where the dedications are required. (Ord. No. 425, §1, 03-11-2010)
  - (2) Subdivisions adjacent to streets located on the City of Helotes Major Thoroughfare Plan, attached hereto and made a part hereof by reference as Appendix D to Chapter 78 Subdivisions. Where subdivisions are adjacent to a street, road, or highway located on the City of Helotes Major Thoroughfare Plan, the subdivider shall be required to dedicate on the plat the remainder of one-half of the right-of-way width (shown on the Major Thoroughfare Plan) measuring from the middle of the existing thoroughfare to the

adjacent property for future expansion of such street, road, or highway adjacent to the land being platted. The developer shall not be required to construct any portion of the street.

(b) Variances.

- (1) *Parties who may appeal.* Any subdivider who feels aggrieved by the implementation of the requirements of this Section may file a written request for variance to the City Council.
- (2) *Authority of City Council.* Upon receiving a variance request, the variance shall be placed on the next available meeting of the City Council. The City Council may affirm the requirements of this Section in whole or part or waive the requirements of this Section.
- (3) *Criteria for review.* The City Council shall uphold this Section if it finds that the City Engineer has established, by a preponderance of the evidence, that a nexus exists between the exaction required by this Section and the impact of the development and that such exaction is roughly proportional to that impact. Should the City Council find that, based upon the above criteria, some exaction less than that is required by this Section is appropriate, the City Council shall reduce the required dedication accordingly. Should the City Council find, based upon the above criteria, that a development shall have no impact on City infrastructure, the City Council shall waive the requirement of this Section.

(Ord. No. 255, §§ 1, 2, 7-8-2004; Ord. No. 406, §1, 7-23-2009)

Secs. 78-4 - 78-30. Reserved.

## **ARTICLE II. SUBDIVISION REGULATIONS**

### **DIVISION 1. GENERALLY**

#### **Sec. 78-31. Short title.**

This article along with its attachments, exhibits and amendments, shall be known as the "Subdivision Regulations" of the city. (Ord. No. 308, §3 (App. A), 7-25-2006)

#### **Sec. 78-32. Statutory authority.**

This article is adopted under the authority of the constitution and laws of the state, including particularly V.T.C.A., Local Government Code, ch. 212. (Ord. No. 308, §3 (App. A), 7-25-2006)

#### **Sec. 78-33. Interpretation and purpose.**

The interpretations and application of the provisions of this article shall be deemed to be minimal in nature, and whenever the principles, standards or requirements of any other applicable provision of other ordinances of the city, which are higher or more restrictive, the latter shall control; and when circumstances warrant, as determined by the city council, the council shall have the authority to impose more restrictive conditions to this article. The purpose of this article is to achieve orderly urban development through land subdivision; to promote and develop the utilization of land to assure the best possible community environment in accordance with a comprehensive plan of the city; to

provide for adequate municipal services and safe streets; and to protect and promote the public health, safety and general welfare. (Ord. No. 308, §3 (App. A), 7-25-2006)

#### **Sec. 78-34. Definitions.**

For the purpose of this article, the following definitions shall apply unless the context clearly indicates or requires a different meaning. Definitions not expressly prescribed herein are to be construed in accordance with customary usage in municipal planning and engineering practices.

*Alley.* A minor public right-of-way not intended to provide the primary means of access to abutting lots, which is used primarily for vehicular service access to the back or side of properties otherwise abutting on a street.

*Building set back line.* The line within a property defining the minimum horizontal distance between a building and the adjacent street property line.

*Crosswalk way.* A public right-of-way, six feet or more in width between property lines, which provides pedestrian circulation.

*Cul-de-sac.* A street having but one outlet to another street, and terminated on the opposite end by a vehicular turn-around.

*Dead-end street.* A street, other than a cul-de-sac, with only one outlet.

*Drainage easement.* An interest in land granted the city, to the public generally, for the construction, use, and maintenance of drainage facilities across, over, and under the private land, together with the right to enter thereon with machinery and vehicles necessary for the maintenance of the drainage facilities.

*Drainage right-of-way.* A public right-of-way granted to the city, to the public generally, for the construction, use and maintenance of drainage facilities across, over and under the public right-of-way.

*Engineer.* A person duly authorized and properly registered under the provisions of the State Engineering Registration Act, as heretofore or hereafter amended, to practice the profession of engineering as evidenced by a current state engineer's seal.

*Lot.* An undivided tract or parcel of land having frontage on a public street and which is, or in the future may be offered for sale, conveyance, transfer or improvement; which is designated as a distinct and separate tract, and which is identified by a tract or lot number or symbol in a duly approved subdivision plat which has been properly filed of record.

*Nonaccess easement.* Easement across which vehicular access is prohibited.

*Office.* Any office referred to in this article by title means the person employed or appointed by the city in that position, or his or her duly authorized representative.

*Pavement width.* The portion of a street available for vehicular traffic; where curbs are laid, it is the portion between the face of curbs.

*Person.* Any individual, association, firm, corporation, governmental agency, or political subdivision.

*Planned residential development (PRD).* A tract of land under the control of a developer, developed in compliance with the performance standards set out in these regulations. A PRD is developed in one or more phases as a single, predominantly residential entity.

*Planned unit development (PUD).* A tract of land developed according to plan as a single entity, in compliance with the use, density, intensity and characteristics of these regulations.

*Plat.* A complete and exact plan for the subdivision of a tract of land into lots for building purposes, which, if approved, may be submitted to the county clerk for recording.

*Private drainage easement.* An interest in, and granted to, the city and to the public generally, for the use of a water course, drainage way, natural channel or stream across private property. Maintenance of the private drainage is a responsibility of the property owner.

*Private streets.* Any nonpublic right-of-way used for vehicular access and constructed and maintained by a private entity.

*Reserve strip.* A reserve strip is any unplatted parcel of land that prevents access to platted property.

*Safety lane.* Shall mean a designated area on an approved plat which has a primary purpose of providing access for safety vehicles in any development where public streets do not adequately provide such access.

*Street.* A public right-of-way, however designated, which provide vehicular access to adjacent land.

- (1) *Secondary street.* Primarily provides vehicular circulation to various sections of the city.
- (2) *Collector street.* Primarily provides circulation within neighborhoods, to carry traffic from minor streets to arterial streets, or to carry traffic through or adjacent to commercial or industrial areas.
- (3) *Marginal access street.* A street which is parallel to and adjacent to an arterial street, which primarily provides access to abutting properties and protection from through traffic.
- (4) *Minor street.* Primarily for access to abutting residential property.

*Subdivider.* Any person or any agent thereof, dividing or proposing to divide land so as to constitute a subdivision as that term is defined herein. In any event, "subdivider" shall be restricted to include only the owner, equitable owner, or authorized agent of such owner or equitable owner, of land sought to be subdivided.

*Subdivision.* A division of any tract of land situated within corporate limits, or within or partly within the extraterritorial jurisdiction of the city, into two or more parts for the purpose of laying out any subdivision of any tract of land or any addition of any town or city, or for laying out suburban lots or building lots, or any lots, and streets, alleys, or parts or other portions intended for public use or the use of purchasers or owners of lots fronting thereon or adjacent thereto. "Subdivision" includes re-subdivision.

*Surveyor.* A registered public surveyor, as authorized by the state statutes to practice the profession of surveying, as evidenced by a valid state seal.

*Utility easement.* An interest in land granted to the city, to the public generally, and/or to a private utility corporation, for installing or maintaining utilities across, over and under private land, together with the right to enter thereon with machinery and vehicles necessary for the maintenance of the utilities.

(Ord. No. 308, §3 (App. A), 7-25-2006)

**Sec. 78-35. Application of provisions.**

No person shall create a subdivision of land within the corporate limits of the city or within its extraterritorial jurisdiction, without complying with the provisions of this article. All plats and subdivisions of any such land shall conform to the rules and regulations herein set forth. (Ord. No. 308, §3 (App. A), 7-25-2006)



**Sec. 78-36. Conformance to comprehensive plan.**

No plat or subdivision of land within the city and within its extraterritorial jurisdiction as determined by V.T.C.A., Local Government Code, ch. 212 may be approved unless the plat considers the comprehensive plan of the city and its roads, streets, alleys, easements, parks, playgrounds and public utility facilities. Including those which have been or may be laid out. Plats will also be compatible with the comprehensive plan for the extension of the city and its roads, streets, alleys, easements and public highways as regards access to public utilities. (Ord. No. 308, §3 (App. A), 7-25-2006)

**Sec. 78-37. Policies and special provisions; effect on existing subdivisions.**

- (a) It is unlawful for the County Clerk of the County to receive or record any such plan, plat, or replat unless and until the same shall be approved by the City.
- (b) No plat will be approved with a septic system unless the system is approved by the County in the location indicated on the plat.
- (c) No permit will be issued for any structure on a lot in a subdivision for which a final plat has not been approved and filed for record, nor for any structure on a lot within a subdivision in which the standards contained herein have not been complied with in full. This Paragraph shall not apply to additions, renovations, or rehabilitations of existing structures, nor shall the same apply to the addition, renovation, or rehabilitation of accessory buildings, associated living quarters, and / or storage buildings.
- (d) The City will not permit the repair, maintenance, installation or construction of any streets or public utility services in any subdivision for which a final plat has not been approved, nor in which the standards contained herein or referred to herein have not been complied with in full.
- (e) The City shall not sell or permit the sale or supply of any water, gas, electricity or sewage service or any other form of public utilities service within a subdivision for which a final plat has not been approved or filed for record, nor in which standards contained herein or referred to herein have not been complied with in full. This Paragraph shall apply only to vacant tracts of land.
- (f) If any subdivision exists for which a final plat has not been approved or in which the standards contained herein or referred to herein have not been complied with in full, the City Council shall pass a resolution reciting the fact of such noncompliance or failure to secure final plat approval, and citing the fact that the provisions of subsections (a), (b), (c), (d) and (e) will apply to the subdivision and the lots therein; the City Secretary shall, when directed by the City Council, cause a certified copy of such resolution under the corporate seal of the City to be filed in the deed records of the County. If full compliance and final plat approval are secured after the filing of such resolution, the City Secretary shall forthwith file an instrument in the deed of records of the County nullifying the previously recorded instrument.
- (g) Provided, however, that the provisions of this Section shall not be construed to prohibit the issuance of permits for any lots upon which a residential building exists and was in existence prior to passage of this subdivision Article; nor to prohibit the repair, maintenance, or installation of any street or public utility services for, to, or abutting any lot, the last recorded conveyance of which prior to passage of this Article was by metes and bounds, and/or any subdivision or lot therein, recorded or unrecorded, which subdivision or lot was in existence prior to the passage of this Article.

(Ord. No. 308, §3 (App. A), 7-25-2006; Ord. No. 493, §1, 01-24-2013)

#### **Sec. 78-38. Dedication and maintenance of streets.**

Disapproval of a plat by the city council shall be deemed a refusal by the city to accept the offered dedication shown thereon. Approval of a plat shall not be deemed an acceptance of the proposed dedications and shall not impose any duty upon the city concerning the maintenance of or improvements of any such dedicated parts until the proper authorities of the city have actually appropriated the same by entry, use or improvements. It shall be unlawful for any officer or employee of the city to maintain the streets in a subdivision, and the city will not accept or maintain the streets, unless and until such streets have been surfaced, the required utilities and drainage facilities have been installed and such improvements have been accepted in writing by the city and the city's engineer. (Ord. No. 308, §3 (App. A), 7-25-2006)

#### **Sec. 78-39. San Antonio Unified Development Code adopted; amendments.**

- (a) The city adopts as part of its subdivision chapter the following provisions of the San Antonio Unified Development Code dated August 1987 and the latest revisions thereof. The provisions are adopted verbatim as if written out fully herein except those inconsistent with other provisions of this article. The provisions are as follows:
  - (1) Article IV. Subdivisions, Division 4: Subdivision A, streets and sidewalks; Subdivision B, street numbers; Subdivision C, sidewalks.
  - (2) Article IV. Division 6 Utilities: Subdivision A water; Subdivision B, sanitary sewers; Subdivision C, easements.
  - (3) Article IV. Division 7, flood plains.
  - (4) Article IV. Division 8, mobile home parks.
- (b) All references in the San Antonio Code herein adopted to the following groups or persons shall mean the following:
  - (1) Director of public works or any other San Antonio staff person shall mean Helotes City Staff.
  - (2) City clerk shall mean city secretary.
  - (3) Zoning commission shall mean Helotes City Council.
- (c) The city adopts as part of its subdivision chapter Article V Division 2 section 35-502 (entitled "Traffic Impact Analysis"), including any and all appendices and tables referenced therein, of the San Antonio Unified Development Code adopted May 3, 2001, and the latest revisions thereof. The provisions are adopted verbatim as if written out fully herein except those inconsistent with other provisions of this chapter. In the context of this ordinance the term city of San Antonio Major Thoroughfare plan, found in the Note to section 35-502, shall mean the city of Helotes Major Thoroughfare plan as has been adopted or may be amended by the Helotes City Council, and the term "permit" found in section 35-502(a)(1) shall mean a plat, replat, rezoning, or building permit. (Ord. No. 290, §1, 11-10-2005)

(Ord. No. 308, §3 (App. A), 7-25-2006)

#### **Sec. 78-40. Extraterritorial jurisdiction; application of provisions.**

Under the provisions of V.T.C.A., Local Government Code, § 212.003, the provisions of this article shall apply to public roads within the city's extraterritorial jurisdiction, and access to public roads

within the extraterritorial jurisdiction shall be determined by the city council, considering the general plan for extension of the municipality, the impact of such access on the general health, safety and welfare of the community, and the goals and objectives as set forth in the city's master plan. (Ord. No. 308, §3 (App. A), 7-25-2006)

**Sec. 78-41. Plat application procedure.**

*Applicability.* The plat application procedure set out in this section (as well as section 78-42 through section 78-48) shall be applicable to any application for preliminary or final plat, replat, or amending plat submitted to the city. (Ord. No. 308, §3 (App. A), 7-25-2006)

**Sec. 78-42. Application.**

- (a) *Application.* Prior to submitting a plat, replat, or amending plat for review by the city or any other agency, the applicant shall complete a plat application, as set out in Exhibit A and obtain a plat number.
- (b) *Payment of fees.* At the time the plat application is submitted, the applicant shall pay to the City of Helotes the plat administration and filing fees, according to section 78-76 of this article.
- (c) *Refunds.* Platting fees are not transferable to other properties nor are they refundable except that the director of planning is authorized to and may grant full or partial refunds as provided below:
  - (1) If the fees collected are in excess of the amount required at the time of plat filing and such excess is not due to a substantial design change from that which was indicated on the initial plat application;
  - (2) If an error in the plat fee calculation is found; or
  - (3) If the plat is withdrawn by the applicant before it was reviewed by any employee or contract professional of the city or a public utility.
- (d) *Plat application expiration and withdrawal.*
  - (1) A plat application shall expire and shall be void for all purposes if a plat is not approved in accordance with this article within two years from the date of plat application submittal. This shall apply to all plat applications filed after the effective date of this amendment.
  - (2) A plat application shall be void for all purposes if it is withdrawn by the applicant.
  - (3) Neither an expired nor a withdrawn plat application may be relied upon as a permit application for the assertion of vested, development or any other right or claim. If after the expiration or the withdrawal of a plat application the applicant wishes future plat approval of the subject property, a new plat application shall be filed, new application fees shall be required and a new plat number shall be assigned.
- (e) *Plat fee exemptions.* The following situations shall be exempt from platting fees:
  - (1) City of Helotes projects payable from the general fund;
  - (2) Permeable areas identified on a proposed plat such as private or public drains, conservation, landscape or greenbelt easements; or
  - (3) Public rights-of-way designated on a proposed plat.

(Ord. No. 308, §3 (App. A), 7-25-2006)

### **Sec. 78-43. Filing.**

*Requirements.* An applicant seeking approval of a preliminary or final subdivision plat, replat, or amending plat shall file the following with the city administrator:

- (1) Thirteen blue or black-line copies of the plat, the specifications for which are set out in section 78-65 through section 78-67 (when filing a preliminary plat), section 78-70 through section 78-72 (when filing a final plat), together with one eight-and-one-half-by-eleven-inch reduced copy on vellum or similar quality material and the original and one reproducible matte film of the plat.
- (2) A performance agreement, if one is required by section 78-101.
- (3) The tax certificates and letters of certification required by section 78-44.
- (4) Fees. At the time the plat is filed, the applicant shall pay to the City of Helotes adjustments to the platting fees as well as any other required fees specified in section 78-76 of this article.

(Ord. No. 308, §3 (App. A), 7-25-2006)

### **Sec. 78-44. Letters and documents of certification.**

The applicant for plat approval shall submit the following items simultaneously with the filing of the subdivision plat:

- (a) *Tax certificates.* Tax certificates from the city, school district and county, which indicate that all ad valorem taxes have been paid up to and including the current year on all land included within the final plat. For tax exempt properties, an applicant may submit evidence of the tax exemption in lieu of tax certificates.
- (b) *Certificates concerning utilities.* Letters of certification by the proper authorized official of each public utility company or board involved to be inscribed on the respective utility layouts required herein certifying approval of the same by the utility company or board.
- (c) *Certificates of city engineer, city arborist and fire chief.* Letters of certification from the city engineer, arborist, the fire chief and Bexar Metro stating they have received and approved or disapproved the applicable data required by section 78-45.

(Ord. No. 308, §3 (App. A), 7-25-2006)

### **Sec. 78-45. Data required for letters of certification.**

- (a) To obtain the required letters of certification, an applicant for any plat approval shall submit the following data to the certifying agencies/departments. All data shall be annotated with the plat number of the associated plat.
- (b) To the city engineer:
  - (1) *Streets, alleys, sidewalks, crosswalks.* Three copies of plans and profiles of all streets, and alleys, and plans for sidewalks and crosswalk ways and three copies of construction specifications and of detailed cost estimates which shall include a 15 percent contingency. Plans are to be drawn at a scale of one inch = 50 feet, longitudinal, and one inch = five

feet, vertical. Benchmarks using USGS data are required. Also, if a proposed plat traverses or is contiguous with a state maintained facility, a permit from the state department of highways and public transportation indicating approval of the proposed access point and right-of-way.

- (2) Storm drainage.
  - a. Two copies of the proposed plat showing two-foot contours in areas where the slope does not exceed five percent and five-foot contours in areas where the slope exceeds five percent. All street widths and grades shall be indicated on the plat, and runoff figures shall be indicated on the outlet and inlet side of all drainage ditches and storm sewers and at all points in the street at changes of grade or where the street enters another street or storm sewer or drainage ditch. Drainage easements shall be indicated.
  - b. A general location map of the subdivision showing the entire watershed. (A USGS quadrangle is satisfactory.)
  - c. Calculations showing the anticipated stormwater flow including watershed area, percent runoff and time of concentration. The 100-year floodplain limits as identified for the most current FIRM published by FEMA for the City of Helotes and/or the applicable county shall be shown on the proposed plan and public works submitted with the drainage report. IN the case that the floodplain boundary for a watercourse is not shown on the FIRM, a professional engineer, using methodologies approved by the city engineer, shall develop the 100-year floodplain limits for each watercourse serving a watershed in excess of 100 acres.
  - d. When a drainage channel, storm sewer or other drainage facility or other requirements are necessary, complete plans and specifications shall be submitted showing complete plans and specifications showing complete construction detail, including calculations showing the basis for design performed in accordance with Exhibit A and included in a submittal report as outlined in section 35-4029(1) of the City of San Antonio's Unified Development Code.
  - e. When conditions upstream or downstream from a proposed channel or storm sewer do not permit maximum design flow, high water marks based on a 25-year frequency shall be indicated based on existing conditions.
- (3) *Stormwater detention.* Information necessary to insure compliance with the city's current on-site stormwater detention regulations found in Chapter 34, its amendments and codifications or recodifications, including information required in section 34-54 and when applicable, section 34-55.
- (4) *Floodplain data and fees.* Two copies of all data, as specified by the latest requirements of the Federal Emergency Management Agency, to apply for a conditional letter of map revision and payment of the associated fees, when the proposed plat shall cause a change in the alignment, width, or elevation of a 100-year floodplain identified on a flood insurance rate map.
- (5) *Landfills.* If the proposed plat is located over a landfill site, the following additional information shall be submitted:
  - a. Two copies of the proposed plat showing two-foot contours in areas where the slope does not exceed five percent and five-foot contours in areas where the slope exceeds five percent, and delineating the limits of the landfill;

- b. A narrative report prepared by a registered professional engineer which includes the following items:
    - 1. The name, address, and phone number of the property owner;
    - 2. Description of the nature and size of the proposed development, including projected population;
    - 3. The percent of impervious cover after development and certification site will have a positive surface drainage;
    - 4. History and age of the landfill;
    - 5. Site geology, including estimates of past and future ground settlement;
    - 6. Description and depth of refuse fill;
    - 7. Description of planned excavations, penetration of any landfill liner, and ultimate disposal site for excavated refuse; and
    - 8. Depth and movement of shallow groundwater.
  - c. A soil gas survey for methane; and
  - d. A slope stability analysis for all landfill embankments.
- (6) Sanitary sewers.
- a. Three copies of plans and profiles of proposed sanitary sewer lines indicating type grades of lines. Plan shall be to a scale of at least 100 feet to an inch with contours and scaled lot dimensions as on plat and shall show existing as well as proposed sewers.
  - b. When a separate sewer system or treatment plant is proposed, three copies of proposed plans.
  - c. Two copies of construction specifications and detailed cost estimates.
- (7) *Septic system.* When sewer service for the proposed plat is to be so provided by septic tanks, written approval by appropriate public agency having installation permit and operation control jurisdiction. Such written approval shall state that approval for septic tank systems for each proposed property is granted and installation permits will be issued for same upon request after plat recordation.
- (8) *Recharge zone.* When a sewer or septic system is proposed within the recharge zone of the Edwards Aquifer within the city or its extraterritorial jurisdiction, written approval or approvals as required by the appropriate state agency having review and enforcement authority jurisdiction regarding the Texas Administrative Code, 31 TAC 331.1-331.11 or the latest revisions thereof regulating such systems.
- (9) Water lines.
- a. Three copies of plans of all proposed water lines and fire hydrants, showing type and sizes of the lines. The plan shall be prepared at a scale of at least 100 feet to [one] inch and shall contain scaled lot-dimensions as shown on the plat.
  - b. When a separate water system is planned, three copies of the plans, including water lines and hydrants.
  - c. Two copies of construction specifications and detailed cost estimates.

- (c) A letter of certification from the city's arborist stating that the plat complies with the current tree preservation regulations of the city.
- (d) A letter of certification from the city's fire chief stating that the plat complies with the current public safety regulations of the city.
- (e) A letter from the Bexar Metro 911 addressing division indicating street name approval.

(Ord. No. 308, §3 (App. A), 7-25-2006)

**Sec. 78-46. Procedure for securing letters of certification.**

- (a) *Review period.* Each certifying department/agency shall review the data submitted by the applicant within 60 days.

When a certifying department/agency determines that the proposed plat or any of the required accompanying data does not conform with requirements of the city's subdivision regulations, the applicant may at his/her option revise any nonconforming aspects. However, if any data are revised and resubmitted after 45 days from the date of submission, the certifying department/agency may have an additional 60 days from the latest date of submission to issue a letter of certification.

- (b) *Disapproval.* If the certifying department/agency issues a letter of certification recommending disapproval of the proposed plat, the letter shall indicate the section and specific requirement of the regulations and the respect in which the proposed plat does not comply. The applicant may then revise the plat or may request the proposed plat be filed with the planning commission provided he/she submits a letter requesting a variance.
- (c) *Validation period.* Letters of certification shall remain valid for six months from the date of issuance by the certifying department/agency. After that time period, new or updated letters of certification shall be required to file a proposed plat with the planning commission.

(Ord. No. 308, §3 (App. A), 7-25-2006)

**Sec. 78-47. Filing date.**

For the purpose of the time limits established by V.T.C.A., Local Government Code, §212.009, no application shall be deemed administratively complete nor shall a plat be deemed filed with the planning and zoning commission or city council until the plat, performance agreement as applicable, tax certificates, letters of certification and, if applicable, a request for a variance have all been submitted to the planning commission. (Ord. No. 308, §3 (App. A), 7-25-2006)

**Sec. 78-48. Reviewing agencies.**

In addition to the certifying departments/agencies, the city engineer may send copies of the plat to the Bexar County Public Works Department, Texas Department of Transportation or other local, state or federal departments agencies or bureaus, as the city engineer in his/her sole discretion seems appropriate. Reviewing departments/agencies may request additional information as necessary from the plat applicant; however, they shall provide their comments back to the city engineer as soon as possible, but no later than 30 days after the filing date. (Ord. No. 308, §3 (App. A), 7-25-2006)

Secs. 78-49 - 78-60. Reserved.

Historical note: Ord. No. 308, § 3(App. A), adopted July 25, 2006, amended Art. II in its entirety to read as herein set out. Former Art. II, §§ 78-31--78-48, 78-61--78-76, 78-101--78-104, 78-131--78-140, 78-161--78-167, pertained to similar subject matter, and derived from Ord. No. 291, § 1(151.001--151.010, 151.0150--151.0158, 151.020--151.035, 151.045--151.048, 151.060--151.069, 151.080--151.085, 151.999), adopted Nov. 10, 2005.

## DIVISION 2. PLAT PROCEDURES

### **Sec. 78-61. Preliminary conference.**

Prior to the official filing of a preliminary plat, the subdivider shall consult with and present proposed plan of subdivision to the city staff for comments and advice on the procedures, specifications and standards required by the city for the subdivision of land. (Ord. No. 308, §3 (App. A), 7-25-2006)

### **Sec. 78-62. Preparation of preliminary plat.**

The subdivider shall cause to be prepared a preliminary plat by a licensed engineer or surveyor in accordance with this article. (Ord. No. 308, §3 (App. A), 7-25-2006)

### **Sec. 78-63. Filing and preliminary fees.**

Each preliminary plat shall comply with the plat application procedures set out in section 78-41 through section 78-48 of this article provided, however, that tax certificates required by section 78-44(a) are not to be filed with a preliminary plat but must be filed with the final plat. In addition, a deposit to cover the costs of the city's engineer and any professional consultant the city may contract to the plat will be made in accordance with section 78-76. (Ord. No. 308, §3 (App. A), 7-25-2006)

Sec. 78-64. Reserved.

### **Sec. 78-65. Form and contents of preliminary plat.**

The preliminary plat shall be drawn on sheets 18 inches wide and 24 inches long, with a binding margin of not less than two and one-half inches on the left side of the sheet and margins on the other three sides of not less than three-eighth inch. The plat shall be drawn to scale of 100 feet to one inch. When more than one sheet is necessary to accommodate the entire area, an index sheet showing the entire subdivision at an appropriate scale shall be attached to the plat. The plat shall show the following:

- (1) Names and addresses of the subdivider, owners of record, and engineer or surveyor;
- (2) Describe the subdivision by metes and bounds;
- (3) Locate the subdivision with respect to a corner of the survey or tract or an original corner of the original survey or which it is a part;
- (4) Proposed name of the subdivision, which shall not have the same spelling as, or be pronounced similar to the name of any other subdivision located within the city or within five miles of the city;



- (5) Names and location of contiguous subdivisions and or indication of whether or not contiguous properties are platted;
- (6) The total acreage and total number of lots in the proposed subdivision;
- (7) Subdivision boundary lines, indicated by heavy lines, and the approximate acreage of the subdivision;
- (8) Existing sites as follows:
  - a. The location, dimensions, name and description of all existing or recorded streets, alleys, reservations, easements, or other public rights-of-way within the subdivision, intersecting, or contiguous with its boundaries or forming such boundaries;
  - b. The location, dimensions, description and name of all existing or recorded residential lots, parks, public areas, and other sites within or contiguous with the subdivision;
  - c. The location and dimensions of all existing improvements on the property to be platted, including buildings, utilities and parking areas;
  - d. The location of the city limits and the outer boarder of the city's extraterritorial jurisdiction if either traverses the subdivision or is contiguous to a subdivision boundary;
  - e. The location of building setback lines, including front, rear, and side setback lines, shown by dashed lines on the plat;
  - f. The centerline of watercourses, creeks and existing drainage structures within and adjacent to the subdivision. Pertinent drainage data and the limits of areas subject to flooding shall be shown, delineating the 100-year flood limits if applicable;
  - g. The location and results of soil analysis tests shall be shown on each lot which is to utilize an on-site wastewater disposal systems. The name and address of the person performing such soil analyses shall be noted on the plat;
  - h. The location of any private water wells located on the property;
  - i. The location of any existing septic systems located within the property.
- (9) The location, dimensions, description and name of all proposed streets, alleys, parks, public areas, reservations, easements or other right-of-way, blocks, lots and other sites within the subdivision;
- (10) Date of preparation, scale of plat and north arrow;
- (11) Topographical information shall include contour lines on a basis of five vertical feet in terrain with an average slope of five percent or more, and on a basis of two vertical feet in terrain with an average slope of less than five percent. Five-foot contour interval surveys tied to City Control Monuments or USGS Bench Marks;
- (12) Certification from a surveyor that the property boundary closes as per minimum standards set forth by the Texas Board of Professional Land Survey Code, as amended, specifically sections 663.13-663.23 which include provisions requiring 1:10,000 + .010 feet precision for monuments found or set within the corporate limits of any city in Texas;
- (13) A number or letter to identify each lot or site and each block. The number shall be coordinated, by the developer, with the clerk of the county to prevent duplication;

- (14) Front building setback lines on all lots and sites. Side yard building setback lines at street intersections and crosswalk ways; and
- (15) Location map at a scale of not more than 4,000 feet to an inch which shall show existing adjacent subdivisions and major streets.

(Ord. No. 308, §3 (App. A), 7-25-2006)

**Sec. 78-66. Layout required when subdivision is unit of larger tract.**

Where the proposed subdivision constitutes a unit of a larger tract owned by the subdivider which he or she intends to subsequently subdivide as additional units of the same subdivision, the subdivision plat shall be accompanied by a layout of the entire area showing the tentative layout of streets, blocks and drainage for such area. The overall layout, or master plan, if approved by the city shall be attached to and filed with a copy of the approved subdivision plat in the permanent files of the city. Thereafter, fractional plats of subsequent units of such subdivision must be submitted for preliminary plat approval, and shall conform to such approved overall layout on the plat. The subdivider may request that the original approved master plan be amended and reapproved. (Ord. No. 308, §3 (App. A), 7-25-2006)

**Sec. 78-67. Data accompanying preliminary plat.**

When submitted, the preliminary plat shall be accompanied by:

- (1) Proposed master plan of all of developer's property when subdivision is a part of a larger tract, as also set forth in section 78-66, which shall be prepared using the same scale as the preliminary plat showing:
  - a. Existing and proposed subdivisions, including streets, lots, parks and drainage easements and right-of-way. All drainage easements shall be labeled as "drainage and storm sewer" easements.
  - b. Location of city limits line, the outer border of the city's extraterritorial jurisdiction, and zoning boundaries, if they lie within the vicinity map.
  - c. The general drainage plan, flow line of existing water courses, existing drainage structures, and ultimate destination of water, and floodplain boundaries.
  - d. Plat note stating: No obstructions, including but not limited to fencing or storage shall be permitted in any drainage easements shown hereon.
  - e. Plat note stating: A ten-foot PUE abutting and along the streetside property line is hereby dedicated for all streetside property lots shown hereon.
- (2) A letter of authorization from the owner(s) of the land area to be platted, acknowledging that the plat request is being filed with the city and authorizing the engineer(s) and/or surveyor(s) to act in his or her behalf.
- (3) A letter(s) from the owner or engineer/surveyor acting in his or her behalf requesting any and all variances from this article which might be proposed.
- (4) Construction plans and cost estimates for any and all off-site improvements proposed and/or required as a condition for approval of the plat as set out in section 78-71.

(Ord. No. 308, §3 (App. A), 7-25-2006)

**Sec. 78-68. Processing preliminary plat; conditional approval or disapproval.**

- (a) The filing date for a preliminary plat shall be determined in accordance with 78-47 and the plat shall be considered by the City of Helotes' Planning and Zoning Commission, for recommendation, and by the City of Helotes City Council for final approval in accordance with the approval procedures set out in V.T.C.A., Local Government Code § 212.008.
- (b) Conditional approval of a preliminary plat by the city shall be deemed an expression of approval of the layout submitted on the preliminary plat in order to proceed with the design of streets, water, sewer and other required improvements and utilities and to the preparation of the final, or record, plat. Conditional approval of a preliminary plat shall not constitute approval of the final plat, automatically or otherwise.
- (c) Conditional approval of a preliminary plat shall be effective for one year unless reviewed by the city's engineer at the request of the city in the light of new or significant information which would necessitate a revision of the preliminary plat. If the city's engineer should deem changes in a preliminary plat as necessary, he or she shall so inform the city staff, who shall so inform the subdivider, in writing.
- (d) If no development has occurred which would affect the proposed plat after one year of effective approval, the city may, upon the application of the subdivider, extend the approval six months.

(Ord. No. 308, §3 (App. A), 7-25-2006)

**Sec. 78-69. Submission of final plat; approval procedure.**

The final plat and the accompanying data shall be submitted to the city council, through the planning and zoning commission and city staff, for approval. City council will approve or disapprove such plat within 30 days after the date the final plat is approved by the planning and zoning commission or is considered approved by the inaction of the commission and has been determined by the city staff as being in substantial conformance with this article. A final plat shall be considered approved by the city council unless it is disapproved within the 30-day period. (Ord. No. 308, §3 (App. A), 7-25-2006)

**Sec. 78-70. Form and content of final plat.**

- (a) The final plat shall conform to the preliminary plat as conditionally approved by the city incorporating any and all changes, modifications, alterations, corrections and conditions recommended by the city's engineer.
- (b) The final plat shall be on sheets 18 inches wide and 24 inches long and two and one-half inches on the left side of the sheet, and margins of not less than three-eighth-inch on the other three sides. The plat shall be drawn at a scale of 100 feet to one inch. Where more than one sheet is necessary to accommodate the entire computed area, an index sheet showing the entire subdivision at an appropriate scale shall be attached to the plat.
- (c) The final plat shall be submitted in 13 blue or black line copies, together with two mylars, and shall contain all of the features required for preliminary plats in section 78-65 above and shall also include the following:
  - (1) The exact location, dimensions, names and description of all existing or recorded streets, alleys, reservations, easements or other public rights-of way within the subdivision, intersecting or contiguous with its boundary or forming such boundary, with accurate dimensions, bearing or deflecting angles and radii, computed area, and central angle, tangent distance and length of all curves, where appropriate.
  - (2) The exact location, dimensions, description and name of all proposed streets, alleys, parks, other public areas, reservations, easements or other rights-of-way, blocks, lots, monuments, and other sites within the subdivision with accurate dimensions, bearing or deflecting angles and radii, area and central angles, tangent distance and length of all curves, where appropriate. All lot corners shall be marked with one-half-inch diameter by two-foot long iron pins.
  - (3) Owner's acknowledgement as set out in appendix A, section 1 of this article.
  - (4) Certification of the surveyor responsible for surveying the subdivision area, attesting to its accuracy as set out in appendix A, section 2 of this article.
  - (5) A certificate by the engineer responsible for the preparation of the final plat and supporting data, attesting to its accuracy as set out in appendix A, section 3(A) of this article.
  - (6) Certification by the city's engineer as set out in appendix A, section 3(B) of this article.
  - (7) Approval of the city council of the city as set out in appendix A, section 4 of this article.
  - (8) County clerk's recording acknowledgement as set out in appendix A, section 5 of this article.

(Ord. No. 308, §3 (App. A), 7-25-2006)

**Sec. 78-71. Data accompanying final plat.**

All plans and calculations shall bear the seal of an engineer and where applicable, all trenches in excess of five feet in depth at construction sites in the city and its extraterritorial jurisdiction must be constructed and operated in accordance with OSHA standards. When filed, the final plat shall be accompanied by the following site improvement data:

- (1) All letters and documents of certification required by section 78-44.

- (2) A letter from the subdivider authorizing the city to file the plat for record.
- (3) A performance agreement in a format as described in this chapter and which is sufficient to guarantee the subdivider will complete any and all required improvements within two years after approval of such plat.

(Ord. No. 308, §3 (App. A), 7-25-2006)

**Sec. 78-72. Processing final plat.**

- (a) If desired by the subdivider and approved by the city's engineer and city council, the final plat may constitute only that portion of the approved preliminary plat which he proposes to record and develop. However, such portion shall conform to all the requirements of this article.
- (b) As soon as practicable after the subdivider is notified of the approval of the preliminary plat, his or her engineer shall submit to the city staff the final plat of the subdivision or portion thereof.
- (c) No final plat will be considered unless a preliminary plat has been submitted. However, if an approved plat has been duly recorded and the subdivider wishes to increase the size of the lots

by combining two or more lots or by combining one lot with a portion of the adjacent lot in such manner that no portion of a lot remains smaller than the original lots, no preliminary plat will be necessary.

- (d) A final plat of an approved preliminary plat or a portion thereof shall be submitted to the city for approval within 12 months of the date of approval of preliminary plat; otherwise, the approval of the city shall become null and void, unless an extension of time is applied for and granted by the city.
- (e) If the final plat is disapproved, the city shall inform the subdivider in writing of the reasons at the time such action is taken if the subdivider requests the reasons in writing.
- (f) After the final plat has been approved and the subdivider has filed a guarantee of performance as prescribed in section 78-102, the security and maintenance bond hereinafter provided, the council shall cause the final plat to be recorded with the county clerk. No plat shall be filed for record without written consent of the subdivider. If the subdivider fails to give such written consent, the council may cancel such approval.
- (g) Payment of all platting fees is required by the city before final plat approval.

(Ord. No. 308, §3 (App. A), 7-25-2006)

#### **Sec. 78-73. Vacating a plat.**

- (a) The force and effect of a recorded plat may be destroyed by properly executing and recording an instrument declaring such plat to be vacated. The instrument shall be substantially in the same form as the applicable vacating declaration (form A or B) set out as described in appendix C. The executed vacating declaration shall be filed with the city together with 12 copies of the plat to be vacated, and, following approval by the deed records of the county.
- (b) If the vacating declaration is filed with the city prior to the sale of any lot on the plat being vacated, a declaration is substantially the same form as the declaration form A in appendix C must be signed and acknowledgment by the proprietors of the land covered by the plat being vacated.
- (c) In cases where lots have been sold, the plat or any part thereof may be vacated upon the execution and recordation of a declaration in substantially the same form as the declaration form B in appendix C. Such declaration requires the signature and acknowledgment of all the owners of lots in the plat being vacated.
- (d) Upon filing the vacating declaration (form A or B in appendix C) a filing fee shall be paid as established by ordinance, in addition to the required recordation fee.
- (e) The resubdivision of the land that is covered by a plat that is vacated shall be platted in the same manner as is prescribed by these regulations for an original plat.
  - (1) A copy of the applicable vacating declaration (form A or B in appendix C) shall be submitted with the resubdivision plat.
  - (2) In addition, the resubdivision plat shall be annotated as follows: "The area being resubdivided in this plat had been previously platted on a plat which is recorded in Volume \_\_\_\_\_, Page \_\_\_\_\_, Bexar County Plat and Deed Records, and was vacated through a vacated declaration being recorded on the same date as this resubdivision plat."

- (f) If the subdivider so desires the vacating declaration (form A or B in appendix C) and the resubdivision plat may be filed and processed simultaneously.

(Ord. No. 308, §3 (App. A), 7-25-2006)

**Sec. 78-74. Replatting without vacating previous plat.**

- (a) *Conditions.* A subdivision or a portion thereof may be replatted without vacating the immediate previous plat of such subdivision under the following conditions:
  - (1) The replat must be signed and acknowledged by only the owners of the particular properties being replatted.
  - (2) The replat does not attempt to alter, amend, or remove any covenants or restrictions.
  - (3) The replat must be reviewed by the Planning and Zoning Commission and approved by the City Council after a public hearing in relation thereto at which interested parties and citizens shall have had an opportunity to be heard.
  - (4) If, during the five (5) years preceding the replat, any of the area to be replatted was limited by an interim or permanent zoning classification to residential use for not more than two residential units per lot, or if any lot in the preceding plat was limited by deed restrictions to residential use for not more than two residential units per lot, then a replat without vacating the preceding plat must conform to the requirements of Local Government Code Section 212.015.
- (b) *Procedures.*
  - (1) The following procedures and specifications shall apply to a replat to which the conditions stated in Subsection (a)(4) above do not apply:
    - a. A certificate substantially in the same form as the applicable certificate (Form C, D, or E of Appendix C to this Chapter) shall be affixed to the replat.
    - b. In addition, the replat shall be annotated generally as follows: "The area being replatted had been previously platted on a plat which is recorded in Volume \_\_\_\_\_, Page \_\_\_\_\_, Bexar County Deed and Plat Records."
    - c. When the replat is filed with the City, the City Secretary shall set a date on which the City Council will hold a public hearing pertaining to the replat. The City Secretary will cause due notice of such public hearing to be given.
    - d. At the time the replat is filed with the City for processing, the subdivider shall pay to the City all applicable fees, as prescribed within the Municipal Fee Schedule.

(Ord. No. 308, §3 (App. A), 7-25-2006; Ord. No. 493, §1, 01-24-2013)

**Sec. 78-75. Amending a plat.**

- (a) A plat that has been approved by the city council may be amended (without benefit of notice, public hearing or approval of other lot owners) if the sole purpose for amending the plat is one or more of the following:
  - (1) To correct an error in a course or distance shown on the prior plat;
  - (2) To add any course or distance shown on the prior plat;
  - (3) To correct an error in the description of the real property shown on the prior plat;
  - (4) To indicate monuments set after death, disability, or retirement from practice of the engineer or surveyor charged with responsibilities for setting monuments;
  - (5) To show the proper location or character of any monument which has been changed in location or character or which originally was shown at the wrong location, or shown incorrectly as to its character on the prior plat;
  - (6) To correct any other type of clerical error or omission as previously approved by the city; such errors and omissions may include, but are not limited to: lot numbers, acreage, street names, and identification of adjacent recorded plats;
  - (7) To correct an error in courses and distances of lot lines between two adjacent lots where both lot owners join in the application for plat amendment and neither lot is abolished, provided that such amendment does not attempt to remove recorded covenants or restrictions and does not have a material adverse affect on the property rights of the other owners of the plat; or
  - (8) To relocate a lot line in order to cure an inadvertent encroachment of a building or improvement on a lot line or on an easement.
- (b) A subdivider wishing to amend an approved plat shall file with the city the amending plat, together with a copy of the plat being amended and a statement detailing the amendments being proposed. The city staff will determine the extent to which the amending plat will require review if necessary, the plat will be considered by the city.
- (c) No changes, erasures, modifications or revisions shall be made on any plat of a subdivision after approval has been given by the city council unless such change, modifications or revisions are first submitted to and approved by the city council.
- (d) A filing fee shall be paid to the city at the time the amending plat is filed with the city. If the plat being amended has been recorded, the additional necessary recordation fee shall also be deposited with the city.

(Ord. No. 308, §3 (App. A), 7-25-2006)



**Sec. 78-76. Fee schedule.**

All fees shall be paid at the time of plat filing. The fees for plats shall be as prescribed in the most recent adopted fee schedule passed and approved by the City Council. The fees shall be non-refundable. (Ord. No. 308, §3 (App. A) 7-25-2006; Ord. No. 368, §1, 9-11-2008; Ord. No. 394, §8, 2-12-2009)

Secs. 78-77 - 78-100. Reserved.

**DIVISION 3. SITE IMPROVEMENTS**

**Sec. 78-101. Performance agreement.**

- (a) *Instrument.* When site improvements (other than gas and electric lines) are involved in a plat, an instrument to ensure construction of all site improvements required by these regulations shall be executed by the subdivider and filed with the city together with the plat. Such instrument shall be in substantially the same form as the instrument set out in appendix C.

- (b) *Time extensions.* No extension to the time limitations set out in such instrument shall be granted by the city council unless and until the applicant shall have justified such request for extension in writing. The request for time extension must be submitted to the city at least 30 days prior to the time limit set out in the performance agreement. If the city finds that development constraints (excluding pecuniary hardship) justify such a request, a time extension may be granted by the city.
  - (1) *Sidewalk improvements.* A time extension of up to a maximum of three years for completion of sidewalks may be granted by the commission if a sidewalk plan indicating the uncompleted sidewalks and a time schedule for sidewalk completion is submitted. The sidewalk plan will be submitted for review and approval with the request.
  - (2) *All other site improvements.* A maximum one-year time extension for completion of site improvements other than sidewalks may be granted by the city if the applicant shows as evidence of good faith performance that the required site improvements are at least 75 percent completed at the time of request.
- (c) *Guarantee.* A guarantee, in an amount sufficient to cover the cost of the remaining site improvements, shall be required if necessary in order for such extension to be granted. Such guarantee must be filed within 30 days of the granting of the extension or the extension shall become null and void. Should the granting of such extension require the filing of any instruments, the fees for recording such instruments shall be paid by the subdivider to the city.

(Ord. No. 308, §3 (App. A), 7-25-2006)

**Sec. 78-102. Guarantee of performance.**

- (a) An approved plat may be filed for record before the required site improvements are completed if one of the following guarantees of performance is filed with the city within three years after the plat has been approved by the city:
  - (1) *Performance bond.*
    - a. A performance bond will be executed by a surety company licensed to do business in the state in an amount equal to the cost estimate, as approved by the city's engineer, of all uncompleted and unaccepted improvements required by these regulations (other than gas and electric lines), with the condition that the subdivider shall complete such improvements and have them accepted by the city's engineer within three years from the date of plat approval.
    - b. The mayor is authorized to sign the bond instrument on behalf of the city and the city's attorney shall approve the same as to form.
  - (2) *Trust agreement.* The subdivider shall cause to be placed in a trust account on deposit in a bank or trust company or with a qualified escrow agent selected by the subdivider and approved by the city's engineer a sum of money equal to the cost estimate, as approved by the city's engineer, of all uncompleted and unaccepted site improvements (other than gas and electric lines) required by these regulations. The trust account shall be established by agreement which shall be substantially in the same form as the trust agreement set out below. The city's engineer is authorized to sign the agreement on behalf of the city and the city's attorney shall approve same as to form.

- (3) *Letter of credit.* The subdivider shall provide an irrevocable letter of credit in an amount equal to the cost estimate, as approved by the city's engineer, of all uncompleted and unaccepted site improvements (other than gas and electric lines) required by these regulations. The letter of credit, properly executed, shall be substantially in the same form as the letter of credit set out in appendix C. The city's engineer is authorized to sign the agreement on behalf of the city and the city attorney shall approve same as to form.
  - (4) *Cash or cashier's check.* The subdivider shall provide to the city cash or a cashier's check in an amount equal to the cost estimate as approved by the city's engineer, of all uncompleted and unacceptable site improvements (other than gas and electric lines) required by these regulations. Upon completion of the required site improvements and their acceptance by the city's engineer, the amount will be refunded to the subdivider by the city.
- (b) When a subdivider has given security in any of the forms herein provided, and when 50 percent of the required site improvements have been completed and have been accepted by the city's engineer, or whenever any segment or segments of the required site improvements have been completed and accepted by the city's engineer, the subdivider may substitute for the original guarantee, a new guarantee in an amount equal to the cost of the remaining site improvements. The cost estimate shall be approved by the city's engineer. Such new guarantee need not be in the same form as the original guarantee so long as such guarantee is one that is listed in subsection (a)(1). However, in no event shall the substitution of one security for another in any way change or modify the terms and conditions of the performance agreement or the obligation of the subdivider as specified in the performance agreement.

- (c) Supplementary guarantees may be required as follows:
  - (1) One year from the date of plat recordation and annually thereafter until the expiration of the three-year period from the date of plat approval, the city's engineer shall review the estimated cost of completing such site improvements as are not then completed and determine the adequacy of the existing performance guarantee. Should the engineer determine that the sum set out in the performance guarantee is inadequate to provide for the completion of the uncompleted site improvements at the then prevailing construction costs, he or she shall require a substitute guarantee to cover the newly estimated cost or a supplemental guarantee to cover the additional sum needed for completion.
  - (2) If a subdivider submits an original performance guarantee after a period of two years has elapsed from the date on which a plat was approved by the city, the actual cost estimate of completing the uncompleted site improvements shall be increased by an amount, based upon a locally recognized construction cost index as approved by the city's engineer, required to cover an estimated inflationary increase in the cost during the duration of the period covered by the performance guarantee.

(Ord. No. 308, §3 (App. A), 7-25-2006)

**Sec. 78-103. Liability of the subdivider.**

- (a) A subdivider shall be held liable to the city for the completion of all site improvements required by these regulations until such time as the improvements shall have been actually completed and accepted by the city.
- (b) If the construction of site improvements has been guaranteed by a form of security described in section 78-103(a)(1), and such improvements have not been completed and accepted by the city within the time period prescribed by these regulations, the city, after written notification has been given to the subdivider, shall take such action as may be required to cause payment to be made to the city of the amounts of money secured by a guarantee of performance. Such amounts of money shall be used by the city to finance the completion of the required improvements.
- (c) In the event that the amounts of money referred to above are insufficient to finance the completion of the required improvements, the city shall so notify the subdivider in writing and shall require the subdivider either to complete the improvements without delay or to make available to the city the amount of money required to finance their completion. Should the subdivider fail to do either of the above and such failure is not due to strikes, riots, acts of God, acts of the public enemy, injunction or other court action, or any other cause similar to those enumerated beyond the subdivider's control, the city shall refer the matter to the city's attorney for such action as the city's attorney may deem appropriate to compel the subdivider to comply with the provisions of the performance agreement entered into by the subdivider as a condition precedent to the approval of the plat by the city, or to pursue any other remedy which may be available to the city. Further, until such time as the required site improvements have been completed and accepted by the city, the city shall refuse to accept from such subdivider a performance guarantee under any form which is related to the plat of a subdivision, subsequently filed with the city, in which such subdivider has a principal or subsidiary interest. Such a plat, once it has been approved by the city, may be recorded only in the manner prescribed in this article.

- (d) The provisions of this section shall not apply if a subdivider is prevented from completing and having accepted such required site improvements within the prescribed time by reason of strikes, riots, acts of God, acts of the public enemy, injunction or other cause similar to those enumerated beyond the subdivider's reasonable control. The subdivider shall be entitled to an extension of time equal to the time of such delay which shall be fixed by written certificate made by the city. It is expressly declared that no such allowance of time will be made unless claimed by the subdivider and allowed and certified in writing by the city at the end of each period of such delay.

(Ord. No. 308, §3 (App. A), 7-25-2006)

**Sec. 78-104. Responsibility for costs of in-place improvements.**

The responsibility for all costs of the in-place improvements as required by this article shall be borne by the subdivider. (Ord. No. 308, §3 (App. A), 7-25-2006)

Secs. 78-105 - 78-130. Reserved.

**DIVISION 4. SUBDIVISION DESIGN STANDARDS**

**Sec. 78-131. Provisions for future subdivisions.**

If a tract is subdivided larger than minimal lot size such parcels shall be arranged to allow the opening of future streets and logical further subdivision. (Ord. No. 308, §3 (App. A), 7-25-2006)

**Sec. 78-132. Reserve strips prohibited.**

There shall be no reserve strips controlling access to land dedicated or intended to be dedicated to public use. It shall be the responsibility of the subdivider/developer/owner of land being platted or replatted that there are no reserve strips controlling access to land dedicated or intended to be dedicated to public use. (Ord. No. 308, §3 (App. A), 7-25-2006)

**Sec. 78-133. Site improvements to conform.**

Streets, alleys, sidewalks and other site improvements required under the provisions of this chapter to be installed in subdivisions by the subdivider shall conform to the specification of this article and to the then current policies and regulations of the city, or other approved utility districts or agencies involved with reference to payment for such installations, refunds, credits and other financial arrangements. Requirements for sidewalks and curbs are waived if individual lot size exceeds one acre or greater. (Ord. No. 308, §3 (App. A), 7-25-2006)

**Sec. 78-134. Neighborhood postal delivery and collection box units.**

- (a) The subdivider shall coordinate with the U.S. Postal Service for the location and placement of neighborhood delivery and collection box units by the postal service.
- (b) The location of the neighborhood delivery and collection box units shall be shown on the utility layout and approved by the city.

(Ord. No. 308, §3 (App. A), 7-25-2006)

### **Sec. 78-135. Blocks.**

- (a) Factors governing dimensions. The length, width, and shape of blocks shall be such as to:
    - (1) Provide adequate building sites suitable to the special needs of the type of use contemplated.
    - (2) Accommodate lots of the size and dimensions required by the zoning code, as amended.
    - (3) Provide for convenient access, circulation, control and safety of street traffic.
    - (4) Give due regard to the limitations and opportunities of topography.
  - (b) Length. Block lengths may not exceed 1,800 feet or be less than 500 feet.
- (Ord. No. 308, §3 (App. A), 7-25-2006)

### **Sec. 78-136. Lots.**

- (a) *Dimensions.* The size, width, depth, shape, and orientation of lots shall be appropriate for the location of the subdivision and for the type of development and use contemplated. Unless the requirements of the zoning code are more stringent or unless a planned unit development or planned residential development is being platted as provided for hereafter, lot dimensions shall be as follows:
  - (1) *Sewered lots.* Where off-lot sewerage is provided, each lot shall have an area of at least 22,000 square feet and shall be at least 60 feet wide except in the case of a planned unit development or planned residential development. In the case of irregularly shaped lots, the minimum width shall be measured at the required front building setback line.
  - (2) *Unsewered lots.* Where off-lot sewerage is not required and is not provided, the lot size shall be determined in accordance with the requirements of the county commissioners' court order "Regulating and Licensing of Private Sewage Facilities," and shall be approved by the county public works department prior to approval by the city. Planned unit developments shall not be permitted with septic tank system installations unless approved by the director of the county public works department. The septic tank system, if approved, shall serve only one individual unit, and the septic tank system shall be located on the lot on which the unit is located.
- (b) Increased dimensions.
  - (1) The city has the authority to increase minimum space requirements if the city finds that any or all of the following conditions exist and that in its judgment the adverse conditions will be averted.
    - a. Where lots conforming to the minimum requirements would disrupt the essential character of the neighborhood.
    - b. Where lots conforming to the minimum requirements, in relation to existing or planned adjacent properties conforming to a larger spacing, would be so small as to cause substantial injury to such adjacent properties by decreasing the market value thereof or otherwise.
    - c. Where lots conforming to the minimum requirements would be inconsistent with the city's master plan or good neighborhood planning.

- d. Where lots widths or area as proposed would have adverse effects on health or welfare due to unusual topographic conditions or soil conditions relative to proper functioning of any planned septic tank or water system.
- (2) If the city shall determine that any or all of the above conditions exist, it may increase the minimum requirements as to area or width so that in the judgment of the city the adverse conditions will be abated.
- (c) Frontage.
  - (1) Except for planned unit developments or planned residential developments, all lots shall front on a public street and shall have a minimum frontage width as follows:

**FRONTAGE**

<i>Minimum Lot Size</i>	<i>Minimum Frontage Width</i>
6,000 Business	60 feet
22,000 Residential (sewered)	60 feet
32,000 Residential (septic)	120 feet

- (2) On lots of irregular shape, the width may be measured at the building line.
- (d) Minimum setback lines.
  - (1) *General provisions.* Minimum front and side building setback lines at streets and crosswalks shall be shown on all plats and shall conform to the restrictions, if any, imposed on the subdivider, but in no event shall such setback lines be less than required by the zoning code.
  - (2) *High pressure oil and gas lines.* Building setback lines adjacent to high pressure oil and gas lines. No structure shall be located nearer than 25 feet to a high pressure oil, gas, or gasoline line. And further, adjacent to such high pressure lines, a 25-foot building setback line (measured at right angles from the center line of the fuel line) shall be shown on the final plat.
  - (3) *Utility lines.* Building setback lines adjacent to existing overhead utility lines shall be such as to ensure compliance with the provisions of appendix B.
- (e) *Corner lots.* Corner lots shall have sufficient width to provide appropriate building setback from and orientation to both streets as required by the zoning code. Lots abutting on crosswalks shall be treated as corner lots.
- (f) *Extra depth and width in certain cases.* Where a lot in a residential subdivision backs up to a railroad right-of-way, a high pressure gasoline or gas line, a major thoroughfare, an industrial area or other existing land use which has a depreciating effect on the residential use of the property, and where no marginal access street or other street is provided at the rear of such lot, additional depth shall be required, but in no case shall a depth in excess of 140 feet be required. Where a rear lot sides to any of the above, appropriate additional width shall be required.

(Ord. No. 308, §3 (App. A), 7-25-2006)

**Sec. 78-137. Land suitability.**

- (a) Every lot shall contain a suitable building site.
- (b) The city may disapprove a plat if the city finds the land to be unsuitable for development due to natural/environmental conditions which may pose a danger to health, safety, or property. Natural/environmental conditions which may render land unsuitable for development include, but are not limited to, flooding, steep slopes, unstable soils, or the presence of a sanitary landfill site. In disapproving a plat, the city shall incorporate its findings, together with the specific facts upon which the findings are based, into the official minutes of the meeting at which the plat is considered.

(Ord. No. 308, §3 (App. A), 7-25-2006)

**Sec. 78-138. Drainage facilities.**

Drainage facilities shall be provided and constructed as specified in appendix B included at the end of this chapter. (Ord. No. 308, §3 (App. A), 7-25-2006)

**Sec. 78-139. Planned unit developments.**

- (a) Planned unit developments shall comply with the provisions contained in the zoning code; however, planned unit developments in the city's extraterritorial jurisdiction are exempt from the zoning procedures.
- (b) The description "planned unit development" shall be prominently indicated on the subdivision plat.

(Ord. No. 308, §3 (App. A), 7-25-2006)

**Sec. 78-140. Planned residential developments.**

- (a) Planned residential development subdivisions shall comply with the provisions contained in zoning code; however, planned residential developments in the city's extraterritorial jurisdiction are exempt from the zoning procedure.
- (b) The description "planned residential development" shall be prominently indicated on the subdivision plat.
- (c) For planned residential developments outside the city limits, the applicant shall provide two copies of deed restrictions limiting the density of each plat to the maximum allowed by the approved development plan.

(Ord. No. 308, §3 (App. A), 7-25-2006)

**Sec. 78-141. Improvement of public easement on private land.**

- (a) This section applies only to improvements to be made by any party, other than a governmental entity, on a public easement located on land that a private individual, or individuals, other than the party seeking to make the improvement, have fee simple interest in.



- (b) All such improvements must be approved by the city council prior to the approval of any plat associated with the proposed improvement or the initiation of any work on said easement.
- (c) Any plat application, to which this section applies, shall require the approval of city council pursuant to the terms set out in Texas Local Government Code § 212.009(b).
- (d) Notification of the time and place the city council shall consider such matters, as set out in subsections (a) and (b) of this section, shall be provided to the fee owner or owners of land on which the easement is located and said notice shall be in writing and be delivered by mail or hand delivery no later than five days prior to the date of the meeting. (Ord. No. 301, §1, 3-9-2006)

**Sec. 78-142. Utilities.**

- (a) *Applicability.* This section shall apply to the application for platting, replatting, amending plat or building permit for any property within the city corporate limits and extraterritorial jurisdiction of the city.
- (b) *Adequate utilities required.* Adequate provision for all utilities shall be provided to the entire subdivision.
- (c) *Undergrounding required.* All new distribution and service lines, both onsite and offsite, for electricity, television, telephone and other wire or fiber optic type utilities shall be underground. Transformers, amplifiers or similar devices associated with the underground lines shall be located upon the ground or below ground. Where the underground placement of such facilities is not a standard practice of the utility involved, the subdivider or developer shall make arrangements with the applicable utility for the payment of all costs associated with the non-standard installations.
- (d) *Definitions.* Underground means not visible from the surface of the earth.

(Ord. No. 322, §2, 11-9-06)

Secs. 78-143 - 78-160. Reserved.

## DIVISION 5. ADMINISTRATION AND ENFORCEMENT

**Sec. 78-161. Authority of city's attorney.**

On behalf of the city, the city's attorney shall, when directed by the city council, institute appropriate action in a court of competent jurisdiction to enforce the provisions of this article or the standards referred to herein with respect to any violation thereof which occurs within the city, within the extraterritorial jurisdiction of the city, as determined under the Municipal Annexation Act, or within any area subject to all or a part of the provisions of this article. (Ord. No. 308, §3 (App. A), 7-25-2006)

**Sec. 78-162. Variances by council.**

The city council may authorize a variance from these regulations when in its opinion, undue hardship will result from requiring strict compliance. In granting a variance, the council shall prescribe only

conditions that it deems necessary to or desirable in the public interest. In making the findings herein below required, the council shall take into account the nature of the proposed use of the land involved, existing uses of land in the vicinity, the number of persons who will reside or work in the proposed subdivision, and the probable effect of such variance upon traffic conditions and upon the public health, safety, convenience and welfare in the vicinity. No variance shall be granted unless the council finds:

- (1) That there are special circumstances or conditions affecting the land involved such that the strict application of the provisions of this article would deprive the applicant of the reasonable use of this land;
- (2) That the variance is necessary for the preservation and enjoyment of a substantial property right of the applicant;
- (3) That the granting of the variance will not be detrimental to the public health, safety or welfare, or injurious to other property in the area; and
- (4) That the granting of the variance will not have the effect of preventing the orderly subdivision of other land in the area in accordance with the provisions of this article. Such findings of the council, together with the specific facts upon which such findings are based, shall be incorporated into the official minutes of the council meeting at which such variance is granted. Variances may be granted only when in harmony with the general purpose and intent of this article so that the public health, safety and welfare may be secured and substantial justice done. Pecuniary hardship to the subdivider, standing alone, shall not be deemed to constitute undue hardship.

(Ord. No. 308, §3 (App. A), 7-25-2006)

#### **Sec. 78-163. Authority of city's engineer.**

The city's engineer is authorized and directed to promulgate rules, regulations standards and specifications for the construction, installation, design, location and arrangement of streets, curbs, street lights, street signs, alleys, utility layouts, utility easements, gates for utility easements, sidewalks, water supply and water distribution systems, fire hydrants, sewage disposal systems, septic tanks, water wells, monuments, criteria for drainage easement requirements, drainage facilities, and crosswalk ways. He or she shall recommend to the city council any changes to be made. No such rules, regulations, standards and specifications shall conflict with this article or any other ordinance of the city. All such improvements shall be constructed, installed, designed, located and arranged by the subdivider in accordance with such rules, regulations, standards and specifications. (Ord. No. 308, §3 (App. A), 7-25-2006)

#### **Sec. 78-164. Conflicting provisions; most restrictive to prevail.**

If any other city ordinance, including but not limited to, the zoning code, are in conflict with this article, the most stringent or restrictive rules shall govern. (Ord. No. 308, §3 (App. A), 7-25-2006)

#### **Sec. 78-165. Prospective effect.**

This article shall be prospective in its application and shall govern plats filed only after passage. (Ord. No. 308, §3 (App. A), 7-25-2006)

**Sec. 78-166. Injunction.**

In addition to any other remedy provided by law, the city and its agents shall have the right to enjoin any violation of this article by injunction issued by a court of competent jurisdiction. (Ord. No. 308, §3 (App. A), 7-25-2006)

**Sec. 78-167. Penalty.**

Anyone violating any provision of this article shall be guilty of a misdemeanor, and upon conviction shall be fined an amount not less than \$25.00 nor more than \$2,000.00, each day that such violation continues shall be deemed a separate offense and be punishable as such. Prosecution or conviction under this section shall never be a bar to other remedies of relief for violations of this article. (Ord. No. 308, §3 (App. A), 7-25-2006)

Chapters 79 - 81. Reserved.

APPENDIX A.

PLAT CERTIFICATES

Sec. 1. Owner's acknowledgment.

STATE OF TEXAS  
COUNTY OF BEXAR

The Owner of the land shown on this plat, and whose name is subscribed hereto, and in person or through a duly authorized agent, dedicates to the City of Helotes, Texas, for the use of the public forever all streets (other than private streets), alleys, parks, watercourses, drains, easements, and the water and sewer lines in all of the aforesaid public places and all other public places there on shown for the purposes and consideration therein expressed.

\_\_\_\_\_  
Owner

STATE OF TEXAS  
COUNTY OF BEXAR

BEFORE ME, the undersigned authority, on this day personally appeared \_\_\_\_\_ known to me to be the person whose name is subscribed to the foregoing instrument, and acknowledge to me that he executed the same for the purposes and consideration therein expressed and in the capacity therein stated. Given under my hand and seal of office this \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_.

\_\_\_\_\_  
Notary Public, Bexar County, Texas

(Ord. No. 50, app. A, 4-28-1988; Ord. No. 162, § 1, 6-14-2001)

Sec. 2. Certification of surveyor.

STATE OF TEXAS  
COUNTY OF BEXAR

I hereby certify that this plat is true and correct and was prepared from an actual survey of the property made under my supervision on the ground.

(Surveyor's Seal) \_\_\_\_\_  
Registered Public Surveyor

Sworn to and subscribed before me this the \_\_\_\_\_ day of \_\_\_\_\_, A.D. 20\_\_\_\_\_.

\_\_\_\_\_  
Notary Public, Bexar County, Texas

(Ord. No. 50, app. A, 4-28-1988)

Sec. 3. Certificates of engineers.

- (A) A certificate by the engineer responsible for the preparation of the final plat and supporting data, attesting to its accuracy:

STATE OF TEXAS  
COUNTY OF BEXAR

I hereby certify that proper engineering consideration has been given this plat to the matters of streets, lots, and drainage layout.

(Engineer's Seal)

\_\_\_\_\_  
Registered Professional Engineer

Sworn to and subscribed before me this the \_\_\_\_\_ day of \_\_\_\_\_, A.D. 20\_\_\_\_\_.

\_\_\_\_\_  
Notary Public, Bexar County, Texas

- (B) Certification by city engineer:

The City Engineer of the City of Helotes hereby certifies that this subdivision plat conforms to all requirements of the subdivision regulations of the City as to which his approval is required.

\_\_\_\_\_  
City Engineer

(Ord. No. 50, app. A, 4-28-1988)

Sec. 4A. Approval of planning and zoning commission.

This plat of \_\_\_\_\_ has been submitted to and considered by the Planning and Zoning Commission of the City of Helotes, Texas, and is hereby approved by such Planning and Zoning Commission.

Dated this \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_\_.

By: \_\_\_\_\_  
Chairperson of the Planning and Zoning Commission  
By: \_\_\_\_\_  
Secretary of the Planning and Zoning Commission

(Ord. No. 50C, § 1, 7-10-2003)

Sec. 4B. Approval of city council.

This plat of \_\_\_\_\_ has been submitted to and considered by the City Council of the City of Helotes, Texas, and is hereby approved by such City Council.

Dated this \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_\_.

By: \_\_\_\_\_

Mayor

By: \_\_\_\_\_

Secretary

(Ord. No. 50C, § 1, 7-10-2003)

Sec. 5. County clerk's recording acknowledgment.

STATE OF TEXAS  
COUNTY OF BEXAR

I, \_\_\_\_\_, County Clerk of said County, do hereby certify that the foregoing instrument of writing with its certificate of authentication was filed for record in my office, on the \_\_\_\_\_ day of \_\_\_\_\_, A.D. 20\_\_\_\_\_, at \_\_\_\_\_M. and duly recorded the \_\_\_\_\_ day of \_\_\_\_\_, A.D. 20\_\_\_\_\_, at \_\_\_\_\_M. in the Records of Deeds and Plats of said county, in book Volume \_\_\_\_\_, on Page \_\_\_\_\_.

In testimony whereof, witness my hand and official seal of office, this \_\_\_\_\_ day of \_\_\_\_\_, A.D. 20\_\_\_\_\_.

County Clerk, Bexar County, Texas

By: \_\_\_\_\_

Deputy

(Ord. No. 50, app. A, 4-28-1988)